



Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 17 April 2003 from the Permanent Representative of Kuwait to the United Nations addressed to the Chairman of the Committee

I have the honour to forward herewith a copy of the State of Kuwait's report regarding the steps taken to implement the measures against Taliban and al-Qa'idah organization in accordance with paragraph 6 of Security Council resolution 1455 (2003).

Original copy of the report including the laws and decrees will be forwarded to Your Excellency in due time.

(Signed) Mohammad A. Abulhasan
Ambassador
Permanent Representative



Permanent Mission of Kuwait to the United Nations

17 April 2003

Sir,

I have the honour to transmit to you herewith a copy of the report of the State of Kuwait on the steps taken to implement measures relating to the al-Qa'idah organization, the Taliban movement and the Osama bin Laden group. The report has been prepared in accordance with paragraph 6 of Security Council resolution 1455 (2003) and other relevant resolutions concerning the Taliban movement and the al-Qa'idah organization.

We shall provide you at a later time with the original of the report in full, together with its annexes pertaining to laws, regulations and circulars.

Accept, Sir, the assurances of my highest consideration.

(Signed) Mohammad A. **Abulhasan**
Permanent Representative

His Excellency Ambassador Juan Gabriel Valdés
Chairman of the Security Council Committee established
pursuant to resolution 1267 (1999)

State of Kuwait

**Ministry of Foreign Affairs
Department of International Organizations**

Report on steps taken by Kuwait with respect to the al-Qa'idah organization, the Taliban movement and the Osama bin Laden group pursuant to Security Council resolution 1455 (2003) and other relevant resolutions

Introduction

Kuwait is one of the countries that have been the target of numerous terrorist attacks over the past two decades. However, within the framework of new developments in the area of terrorism, and especially after the events of 11 September 2001 in the United States of America, Kuwait has intensified its efforts, both locally and internationally, to counter those developments.

Thus, Kuwait has set up numerous national committees within the framework of the study of international terrorism from the political and financial standpoints as well as in connection with charitable organizations. In the political area, after the events of 11 September Kuwait created a committee within the Ministry of Foreign Affairs (Department of International Organizations) to follow up on the implementation of international resolutions and answer queries emanating from the Security Council committees established pursuant to resolutions 1373 (2001) and 1267 (1999). The members of that ministerial committee belong to numerous governmental quarters. In the area of charitable organizations, it created a committee for follow-up of the reorganization of charitable work in the wake of the events of 11 September. The Council of Ministers of Kuwait formed a supreme committee on the organization of charitable work, chaired by the Ministry of Social Affairs and Labour, to serve as a permanent authority on the organization of charitable work.

In the financial area, a committee to combat money-laundering and terrorism-financing activities was established in 2002 under the chairmanship of the Kuwaiti Ministry of Finance, with members including representatives of a number of State agencies. This committee is charged with various tasks, including the following:

1. Mapping out strategic policies and general policy on combating money-laundering and terrorism;
2. Preparing the necessary draft laws, amending and updating legislation and preparing implementing regulations on combating money-laundering and terrorism;
3. Providing coordination among the agencies concerned with this area.

The procedures followed within the framework of the monitoring of movements of the Osama bin Laden group, the al-Qa'idah organization and the Taliban movement include the monitoring of activities carried on by those groups. Among the activities observed one may note the collection of funds and their transfer abroad by certain individuals or acts of violence against military

personalities of friendly countries who happen to be in the country. These are the most important acts and activities observed in the country that violate the laws and regulations in force, be it in the political or financial spheres or in the area of charities.

The Consolidated List

We should like at the outset to point out that the List is considered the primary source on which coordination among the competent Kuwaiti authorities is based for the circulation of names. Those authorities, each within its own sphere of competence, take the necessary steps for entering those names, whether in the financial area, i.e., for following the balances of the persons in question, freezing their assets and prohibiting dealings with them, or in the security area, which involves taking all necessary steps to prevent the entry of persons belonging to or associated with the organization. Such prevention is connected with specific measures for the entry of all names and personal data of persons associated with the Osama bin Laden group, the al-Qa'idah organization and the Taliban movement in a prohibited-entry list that is circulated to all the country's exit/entry points.

In this connection, a number of procedures have been adopted against any and all individuals or groups to prevent support or assistance to the Osama bin Laden group, the al-Qa'idah organization or the Taliban movement. These procedures are derived from laws criminalizing the following:

- (a) Working for a foreign State or for a person working in the interest of such a State in a manner that is detrimental to the political standing of the State of Kuwait;
- (b) Carrying out, without the permission of the Government, any hostile activity against a foreign State or enrolling in the military forces of such a State;
- (c) Training in martial arts, bearing arms and using ammunition to achieve unlawful purposes;
- (d) Financing the establishment of training camps without the permission of the Government, which is considered a hostile act.

Regarding the submission to the Committee of the names of individuals associated with Osama bin Laden, al-Qa'idah or the Taliban, we should like to point out that the Kuwaiti judiciary is still examining many cases involving crime in this area. We find it difficult, however, to state the names of the perpetrators of such crimes until after the final judgement has been handed down in such cases. Nevertheless, we can mention the number of such trials and the measures that have been taken with regard to them:

- 1. Five cases have been turned over to the competent court but no final decision has yet been reached in them;
- 2. Three cases are in the investigation stage and have not been disposed of to date.

The competent Kuwaiti authorities feel that there are a number of problems that Kuwait faces in connection with the List, namely:

1. Some of the names are incomplete, while others are double names that are common; moreover, they are not accompanied by personal data such as the passport number or the like;
2. Some of the names are political aliases.

Financial assets

The Central Bank of Kuwait freezes the accounts and assets of persons and organizations whose names appear on the freeze list issued pursuant to the relevant Security Council resolutions and pursuant to explicit requests received by the Central Bank through the Kuwaiti Ministry of Foreign Affairs for the freezing of such accounts and funds.

Within this framework, immediately upon receipt of the circular from the Central Bank of Kuwait on the freezing of funds suspected of connections with terrorism, the units of the banking and finance system in Kuwait proceed to check the names of organizations and individuals that appear on the freezing lists. This is done by a computer search that makes it possible to extract any name or determine any assets connected with the names appearing on the said circular. The findings are then reported to the Central Bank and any existing assets or accounts belonging to such persons or organizations are immediately frozen and the Central Bank notified.

It may be noted that, on the basis of instructions from the Central Bank of Kuwait on combating money-laundering and the financing of terrorism, all local banks have established autonomous units, placed under the presidents of their respective boards of governors, to ascertain the degree of compliance with laws, ministerial decisions and directives of the Central Bank of Kuwait on combating money-laundering and the financing of terrorism as well as the policies, controls and measures established by the bank in question on this matter.

Determining the soundness of the procedures followed for ascertaining to what extent such funds, or cooperation with organizations suspected of being connected with terrorism, exist is one of the most important responsibilities of those autonomous units and other relevant units in the bank in question.

In this connection, we should mention the promulgation of Law No. 35/2002 on combating money-laundering and the directives of the Central Bank of Kuwait issued to all units subordinate to it, both of which accord special importance to the principle "Know your client", according to which no transaction is carried out with any individual or organization until their identity has been established on the basis of official documents.

It should be noted that the Central Bank of Kuwait is directly responsible for the monitoring of all banks, investment companies, investment funds and money-changing companies. It checks the extent to which those entities comply with all decisions and directives relating to money-laundering operations and the financing of terrorism and takes the necessary measures in respect of any violators.

In addition, the Government has placed a ban on transfers to public welfare associations and prohibited local banks and other financial institutions from opening accounts for or effecting money transfers in favour of public charity committees and societies in Kuwait unless they have been authorized to do so by the Kuwaiti

Ministry of Social Affairs and Labour. The Central Bank of Kuwait has made that prohibition universally applicable to all local banks, which are required to submit to the Central Bank accurate monthly reports, certified by the foreign accounts auditor, on financial transfers effected to all popular associations and institutions authorized to carry on charitable work in the State of Kuwait.

To return to the question of the monitoring of the activities of charitable committees and societies operating in Kuwait, the Ministry of Social Affairs and Labour has defined a number of controls for charitable work. As mentioned above, the Kuwaiti Council of Ministers has adopted a decision to establish a supreme committee on the organization of charitable work, chaired by the Ministry of Social Affairs and Labour, to serve as a permanent authority on the organization of charitable work. The Committee is entrusted with numerous responsibilities, which include the following:

1. Establishing policies and regulations for the collection of contributions;
2. Supporting the efforts of charitable institutions, enhancing their performance and making certain that there is proper financial monitoring of their activities;
3. Coordinating with official and grass-roots institutions with a view to promoting charitable work and furthering its contribution to the development of society.

The Ministry of Social Affairs and Labour, in cooperation with other governmental agencies, takes various steps in the area of charitable work, such as the following:

- The Ministry of Information monitors advertisements and announcements relating to public welfare associations or committees concerned with the collection of contributions from the public at large in order to ensure that they are not exploited for the wrong purposes;
- The Municipality of Kuwait City prohibits the granting to any society or committee of a building permit or a permit for the rental of buildings, real estate or other premises within the State of Kuwait in connection with the collection of voluntary contributions until approval has been obtained from the Ministry of Social Affairs and Labour.

In addition, a new organizational unit was created within the Ministry at the directorate level (known as the Directorate of Charitable Associations and Institutions) pursuant to ministerial decision No. 104/2002 of 5 August 2002. This Administration is responsible for overseeing all charitable institutions and associations, whether declared or to be declared in the future. It has prepared a detailed work plan that includes supervision and monitoring of all stages of the collection of contributions and the various aspects of expenditure and monitoring of all facets of charitable work in the country. An audit bureau has been designated to audit the accounts of charitable associations in accordance with internationally applied principles of accounting.

In an effort to codify charitable work, the Ministry of Social Affairs and Labour has also notified charitable associations that they must abide by all laws, decisions and regulations, and efforts have been made to call a temporary halt to the

announcement of new charitable organizations until the establishment of the necessary controls is completed.

With regard to new measures adopted, the following can be said:

1. Article 5 of Law No. 35/2002, on combating money-laundering, provides that the Office of the Public Prosecutor shall be the official authority in Kuwait for receiving notifications concerning suspects in cases relating to that area;
2. When such suspicions arise, the Central Bank shall issue directives to local banks, which, if they themselves have suspicions or doubts concerning a given transaction, shall set aside the funds related to the questionable transaction in a suspense account for a period not to exceed two business days, during which an investigation shall be conducted and information on the suspected transaction and the parties involved in it shall be collected. The results of the investigation performed by the bank shall be recorded in writing;
3. Should the final results of this procedure confirm those suspicions, the bank must notify the Office of the Public Prosecutor in accordance with the article mentioned above, giving the details, and must at the same time send a copy of such notice and details to the Central Bank for information.

Thus we find that investment companies and money-changing companies are subject to monitoring by the Central Bank under the law on combating money-laundering. Such entities report any suspicious transaction that has come to their attention. In addition, directives of the Central Bank of Kuwait on combating money-laundering and the financing of terrorism deal with money-changing companies in this connection. Such directives are currently also being prepared specifically for investment companies.

The said law deals with other financial institutions, such as money-changing institutions and insurance companies, by requiring them to report any suspicious operations in accordance with the above-mentioned article 5. It should also be noted that such entities are subject to monitoring by the Kuwaiti Ministry of Commerce and Industry.

Inasmuch as entities such as banks and money-changing companies, which are subject to monitoring by the Central Bank, are the sole entities authorized to effect money transfers, the Central Bank of Kuwait directives issued for those entities have made it a requirement that dealings be limited to carrying out such transactions with correspondents authorized for that purpose by the authorities in the country in which such correspondents are located.

Travel ban

The procedures followed in Kuwait are defined with respect to the lists provided by the Committee, as follows:

1. The names appearing on the list are entered;
2. The names are circulated via computer to the country's exit/entry points.

In this regard it should be mentioned that the question of providing the names of individuals to points of entry into the country is not a difficult matter: the entry of information relating to names of individuals or groups does not require much time or effort, inasmuch as it is done by computer.

The granting of entry visas involves the use of sophisticated means and takes place only after security clearance.

All the names on the lists provided by the Committee have been entered in computers by the competent Kuwaiti authorities and are circulated to exit/entry points. However, no individuals whose names appear on the lists have been arrested at such exit/entry points.

Military embargo

It must be pointed out that military agreements concluded by the State of Kuwait with other States are examined secretly, not publicly. In other words, an ordinary person is in no way able to examine them. This prevents information pertaining to them from being leaked to any entities or groups that might wish to exploit their provisions in a manner contrary to the interests of the country.

The Government of Kuwait, in cooperation with the Kuwaiti Parliament, follows the implementation of such agreements.

Concerning measures taken with regard to the training of the individuals in question, a number of elements associated with al-Qa'idah, the Taliban and the Osama bin Laden group have been apprehended. Persons whose involvement with those groups has been corroborated or who have received training at special camps have been turned over to the Kuwaiti judicial authorities in order that legal steps may be taken regarding them.

State of Kuwait

Ministry of Foreign Affairs Department of International Organizations

Law, decision or directive

- 1 Law No. 35 of 1985 on crimes involving the use of explosives
 - 2 Decree-law No. 13 of 1968 on weapons and ammunition
 - 3 Law No. 32 of 1968 on money, the Central Bank of Kuwait and the money-changing profession
 - 4 Law No. 15 of 1960 on commercial companies
 - 5 Law No. 36 of 1964 on the regulation of commercial agencies, and the related implementing regulation
 - 6 Law No. 8 of 2001 on the investment of foreign capital
 - 7 Law No. 35/2002 on combating money-laundering
 - 8 Ministerial decision No. 17/2002 on the establishment of a committee on combating money-laundering operations and the financing of terrorism
 - 9 Ministerial decision of 2002 on directives to be adopted to combat money-laundering
 - 10 Ministerial decision No. 104 of 2002 on the creation of the Directorate of Charitable Associations and Institutions
 - 11 Rules for the organization of the Directorate of Charitable Associations and Institutions
 - 12 Work plan of the Directorate of Charitable Associations and Institutions for the period from October 2002 to December 2003
 - 13 Circular to all local banks, the Kuwaiti Financing House and investment and money-changing companies
 - 14 Circular to all money-changing companies
 - 15 Instructions No. 2/RS/95/2002 to all money-changing companies on combating money-laundering operations and the financing of terrorism
 - 16 Guide to directives on types of suspicious transactions (1)
 - 17 Circular to all local banks
 - 18 Instructions No. 2/RB/92/2002 on combating money-laundering operations and the financing of terrorism
 - 19 Guide to directives on types of suspicious transactions (2)
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